

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

PABRINY THORNTON,

Plaintiff,

v.

NEHLS FOR CONGRESS,

Defendant.

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Civil Action No.

4:21-cv-472

Jury Trial Demanded

COMPLAINT

PABRINY THORNTON (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against NEHLS FOR CONGRESS (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. §227, et seq.

JURISDICTION AND VENUE

2. This Court has subject-matter jurisdiction over the TCPA claims in this action under 28 U.S.C. § 1331, which grants this court original jurisdiction of all civil actions arising under the laws of the United States. See Mims v. Arrow Fin. Servs., LLC, 565 U.S. 368, 386-87 (2012) (confirming that 28 U.S.C. § 1331 grants the United States district courts federal-question subject-matter jurisdiction to hear private civil suits under the TCPA).

3. This Court has personal jurisdiction over Defendant because Defendant is located in the State of Texas and because the occurrences from which Plaintiff’s cause of action arises took place and caused Plaintiff to suffer injury in the State of Texas.

1 4. Venue is proper pursuant to 28 U.S.C. §1391 (b)(1) and (b)(2).

2 **PARTIES**

3 5. Plaintiff is a natural person residing in Richmond, Texas 77406.

4 6. Plaintiff is a “person” as that term is defined by 47 U.S.C. §153(39).

5 7. Defendant is a business entity with a principal place of business, head office, or
6 otherwise valid mailing address at Freedom Hall, 1612 Crabb River Road, Richmond, Texas
7 77469.

8 8. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

9 9. Defendant acted through its agents, employees, officers, members, directors,
10 heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

11 **FACTUAL ALLEGATIONS**

12 10. Plaintiff has a cellular telephone number ending in 8348.

13 11. Defendant text messaged Plaintiff on her cellular telephone number on a
14 repetitive and continuous basis regarding Troy Nehls campaign for Congress.

15 12. Defendant placed these text messages using an automatic telephone dialing
16 system.

17 13. Defendant did not have consent to contact Plaintiff.

18 14. Plaintiff did not request information from Defendant regarding the campaign and
19 has not volunteered or donated to the campaign.

20 15. Defendant’s texts were not made for “emergency purposes.”

21 16. Plaintiff has been on the Do Not Call Registry since December 17, 2019.

22 17. Defendant knew its text messages were unwanted, therefore, all texts could have
23 only been made solely for purposes of harassment.
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1 29. Defendant's acts as described above were done with malicious, intentional,
2 willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the
3 purpose of harassing Plaintiff.

4 30. The acts and/or omissions of Defendant were done unfairly, unlawfully,
5 intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal
6 defense, legal justification or legal excuse.

7 31. As a result of the above violations of the TCPA, Plaintiff has suffered the losses
8 and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles
9 damages.

10
11 **COUNT II**
12 **Defendant Violated the TCPA 47 U.S.C. § 227(C)**

13 32. Plaintiff incorporates the forgoing paragraphs as though the same were set forth
14 at length herein.

15 33. The TCPA prohibits any person or entity of initiating any telephone solicitation
16 to a residential telephone subscriber who has registered his or her telephone number on the
17 National Do-Not-Call Registry of persons who do not wish to receive telephone solicitations
18 that is maintained by the Federal Government. 47 U.S.C. § 227(c).

19 34. Defendant contacted Plaintiff despite the fact that Plaintiff was on the Do Not
20 Call Registry.

21 35. Defendant called Plaintiff on two or more occasions during a single calendar
22 year despite Plaintiff's registration on the Do Not Call list.
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1 36. Defendant's acts as described above were done with malicious, intentional,
2 willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the
3 purpose of harassing Plaintiff.

4 37. The acts and/or omissions of Defendant were done unfairly, unlawfully,
5 intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal
6 defense, legal justification or legal excuse.

7 38. As a result of the above violations of the TCPA, Plaintiff has suffered the losses
8 and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles
9 damages.

10 **Wherefore, Plaintiff, Pabriny Thornton, respectfully prays for judgment as follows:**

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- 12 a. All actual damages Plaintiff suffered (as provided under 47 U.S.C. §
- 13 227(b)(3)(A));
- 14 b. Statutory damages of \$500.00 per violative telephone call (as provided
- 15 under 47 U.S.C. § 227(b)(3)(B));
- 16 c. Additional statutory damages of \$500.00 per violative telephone call (as
- 17 provided under 47 U.S.C. § 227(C);
- 18 d. Treble damages of \$1,500.00 per violative telephone call (as provided
- 19 under 47 U.S.C. § 227(b)(3));
- 20 e. Additional treble damages of \$1,500.00 per violative telephone call (as
- 21 provided under 47 U.S.C. § 227(C);
- 22 f. Injunctive relief (as provided under 47 U.S.C. § 227(b)(3) and (c); and
- 23 g. Any other relief this Honorable Court deems appropriate.
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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, PABRINY THORNTON, demands a jury trial
in this case.

Respectfully submitted,

Dated: 02/10/2021

By: /s/ Amy L. Bennecoff Ginsburg
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